

Pro Se 14 (Rev. 12/16) Complaint for Violation of Civil Rights (Prisoner)

UNITED STATES DISTRICT COURT

for the

Eastern District of Massachusetts

____ Division

Case No. _____

(to be filled in by the Clerk's Office)

Richard A McFee

Plaintiff(s)

(Write the full name of each plaintiff who is filing this complaint. If the names of all the plaintiffs cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names.)

Clinical Director "B, YEH"
FNP "F. Fandreyer"
Doctor L. Lund, Please see Attachment

Defendant(s)

(Write the full name of each defendant who is being sued. If the names of all the defendants cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names. Do not include addresses here.)

COMPLAINT FOR VIOLATION OF CIVIL RIGHTS

(Prisoner Complaint)

NOTICE

Federal Rules of Civil Procedure 5.2 addresses the privacy and security concerns resulting from public access to electronic court files. Under this rule, papers filed with the court should *not* contain: an individual's full social security number or full birth date; the full name of a person known to be a minor; or a complete financial account number. A filing may include *only*: the last four digits of a social security number; the year of an individual's birth; a minor's initials; and the last four digits of a financial account number.

Except as noted in this form, plaintiff need not send exhibits, affidavits, grievance or witness statements, or any other materials to the Clerk's Office with this complaint.

In order for your complaint to be filed, it must be accompanied by the filing fee or an application to proceed in forma pauperis.

FILED
IN CLERK'S OFFICE

JUN 21 PM 1:05

U.S. DISTRICT COURT
EASTERN DISTRICT OF MASSACHUSETTS

Pro Se 14 (Rev. 12/16) Complaint for Violation of Civil Rights (Prisoner)

I. The Parties to This Complaint**A. The Plaintiff(s)**

Provide the information below for each plaintiff named in the complaint. Attach additional pages if needed.

Name

All other names by which
you have been known:

ID Number

Current Institution

Address

Richard Angelo McFee
Richy Howell
18623-041
Federal Medical Center, Fort, Devens
BPMB 879
AYER MA 01432
City State Zip Code

B. The Defendant(s)

Provide the information below for each defendant named in the complaint, whether the defendant is an individual, a government agency, an organization, or a corporation. Make sure that the defendant(s) listed below are identical to those contained in the above caption. For an individual defendant, include the person's job or title (*if known*) and check whether you are bringing this complaint against them in their individual capacity or official capacity, or both. Attach additional pages if needed.

Defendant No. 1

Name

Job or Title (*if known*)

Shield Number

Employer

Address

B. YEH
Medical Director
United States Department of Justice
Federal Bureau of Prisons, 42 Patton
42 Patton RD, Devens MA 01434
City State Zip Code

☒ Individual capacity ☐ Official capacity

Defendant No. 2

Name

Job or Title (*if known*)

Shield Number

Employer

Address

F. Fondreyer
ENP Facility Nurse Practitioner
USDOT - Federal Bureau of Prisons
42 Patton RD
Devens MA 01434
City State Zip Code

☒ Individual capacity ☐ Official capacity

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Defendant No. 3

Name

L. Lund

Job or Title (if known)

Doctor

Shield Number

Employer

USDOJ Federal Bureau of Prisons

Address

42 Patton Road

Deven's

MA

01434

City

State

Zip Code



Individual capacity



Official capacity

Defendant No. 4

Name

Rm ~~Mr. Tidwell~~ MR. Tidwell

Job or Title (if known)

~~Prisoner~~ Rm ~~Prisoner~~

Shield Number

Medical Hospital Correctional Counselor

Employer

USDOJ Federal Bureau of Prisons

Address

42 Patton Road

Deven's

MA

01434

City

State

Zip Code



Individual capacity



Official capacity

II. Basis for Jurisdiction

Under 42 U.S.C. § 1983, you may sue state or local officials for the "deprivation of any rights, privileges, or immunities secured by the Constitution and [federal laws]." Under *Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics*, 403 U.S. 388 (1971), you may sue federal officials for the violation of certain constitutional rights.

A. Are you bringing suit against (check all that apply):

Federal officials (a *Bivens* claim)

State or local officials (a § 1983 claim)

B. Section 1983 allows claims alleging the "deprivation of any rights, privileges, or immunities secured by the Constitution and [federal laws]." 42 U.S.C. § 1983. If you are suing under section 1983, what federal constitutional or statutory right(s) do you claim is/are being violated by state or local officials?

C. Plaintiffs suing under *Bivens* may only recover for the violation of certain constitutional rights. If you are suing under *Bivens*, what constitutional right(s) do you claim is/are being violated by federal officials?

(Eighth amendment) Cruel and unusual - punishment
(1st) First Amendment Retaliation and Harassment after Filing Administrative -
- Remedy's

- D. Section 1983 allows defendants to be found liable only when they have acted "under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia." 42 U.S.C. § 1983. If you are suing under section 1983, explain how each defendant acted under color of state or local law. If you are suing under *Bivens*, explain how each defendant acted under color of federal law. Attach additional pages if needed.

Clinical Director "B. YEH" Refused to follow Consultative Colorectum Surgeon "Ms Davids" treatment plan which she requested to Defendant "B. YEH" To do A list of Procedures before Plaintiff Follow up Care Surgeon David. On 5/8/18 Please see Attachment # B

III. Prisoner Status

Indicate whether you are a prisoner or other confined person as follows (check all that apply):

- ☐ Pretrial detainee
☐ Civilly committed detainee
☐ Immigration detainee
☐ Convicted and sentenced state prisoner
☒ Convicted and sentenced federal prisoner

☐ Other (explain) Care level 4 Medical Disable Inmate with Diagnostics of Stage 4 Colon's Disease

IV. Statement of Claim

State as briefly as possible the facts of your case. Describe how each defendant was personally involved in the alleged wrongful action, along with the dates and locations of all relevant events. You may wish to include further details such as the names of other persons involved in the events giving rise to your claims. Do not cite any cases or statutes. If more than one claim is asserted, number each claim and write a short and plain statement of each claim in a separate paragraph. Attach additional pages if needed.

- A. If the events giving rise to your claim arose outside an institution, describe where and when they arose.

- B. If the events giving rise to your claim arose in an institution, describe where and when they arose.

The Current Violations has Arise Here At USMCFP Ft. Devens Since Jan 1st 2018 Plaintiff has been requesting to be seen And treated For the Damages from the Sexual Assault, And has Also Ask For treatment with the fistula Holes on the out- and Inside of His Stomach which plaintiff has been Dealing with Serious fistula Issue For over 2 years while in the Bureau Custody 8/1/2016 - 6/1/2018

C. What date and approximate time did the events giving rise to your claim(s) occur?

The Sexual Assault Happened on 9/26/2018
The fistula Holes occurred on 8/1/2016 while housed At
USMCFP-Springfield MO, which the Medical Department
refused to treat Plaintiff fistula issue which caused
the Plaintiff more serious life threatening Damages

D. What are the facts underlying your claim(s)? (For example: What happened to you? Who did what?

Was anyone else involved? Who else saw what happened?) On 9/26/2017, 2 officers At the
USMCFP-Rochester mn sexually sodomized me with a toilet plunger
after I refused to give them information concerning A Assault after
reporting the Assault to my family & the Department of Justice, my
medical treatment for Surgery At USMCFP-Rochester for the fistula
Hole was refused (AMA) Against medical Advice And I was transferred
to USMCFP-Ft Devens to get medical treatment, Since Arriving to
Ft. Devens I been Denied treatment for the Damages from the Sexual-
Assault, and the providers has refused to follow the surgeons plan
of care so that I can receive surgery for the fistula Holes, I
Injuries been living with since 8/1/2016 At USMCFP-Springfield.

If you sustained injuries related to the events alleged above, describe your injuries and state what medical
treatment, if any, you required and did or did not receive.

from the Sexual Assault, my
whole rectum Area are Damaged with inconsistent Bleeding and
Painness Inbetween my Butt cheeks, I Haven't been seen yet which no
treatment plan of care in order, things continue to worsen.

With the fistula issue, the reason why I was sent to USMCFP-
Rochester mn because the Mayo Clinic surgery team was the only doctors
willing to remove the complicated fistula Holes the plan of care was to get
me healthy after arriving to USMCFP-Rochester on may 12 2017 Unlithdly
from USMCFP-Springfield, after getting healthy In late August of 2017 the
Assault occurred 30 days later and 3 months before my surgery Date

VI. Relief

At Mayo Clinic And I was retaliated Against by the
Warden "Burkhart" & Captain Miller At USMCFP-Rochester An Sent to Fort-
Devens

State briefly what you want the court to do for you. Make no legal arguments. Do not cite any cases or statutes.

If requesting money damages, include the amounts of any actual damages and/or punitive damages claimed for
the acts alleged. Explain the basis for these claims. I will Ask the courts to help me
receive the surgery which was in place At the Mayo Clinic since
the Mayo Clinic are the Medical team who treated my Crohn's
before In incarceration ② I Ask the Courts to see to me receiving
Adequate Medical Attention while Here At USMCFP-Ft Devens, to have
the Boston General Crohn's Disease Specialist Surgeon to see if he
can fix the fistula Holes
③ to have my Back Side exzomase by A Second opinion outside
care provider on A consultative visit

④ I Ask the Court to grant me the sum of 2.5 million Dollars
for the violations of my "eighth amendment constitutional Rights"
And allow me time served with A medical Departure under Rule
3553 A B Clause reduction of Sentencing so I can get the
medical treatment I need And return to my Wife's Kids.

VII. Exhaustion of Administrative Remedies Administrative Procedures

The Prison Litigation Reform Act ("PLRA"), 42 U.S.C. § 1997e(a), requires that "[n]o action shall be brought with respect to prison conditions under section 1983 of this title, or any other Federal law, by a prisoner confined in any jail, prison, or other correctional facility until such administrative remedies as are available are exhausted."

Administrative remedies are also known as grievance procedures. Your case may be dismissed if you have not exhausted your administrative remedies.

A. Did your claim(s) arise while you were confined in a jail, prison, or other correctional facility?

☒ Yes

☐ No

If yes, name the jail, prison, or other correctional facility where you were confined at the time of the events giving rise to your claim(s).

United States medical Center For Federal Prisoners
Fort. Devens, Springfield And Rochester

B. Does the jail, prison, or other correctional facility where your claim(s) arose have a grievance procedure?

☒ Yes

☐ No

☐ Do not know

C. Does the grievance procedure at the jail, prison, or other correctional facility where your claim(s) arose cover some or all of your claims?

☒ Yes

☐ No

☐ Do not know

If yes, which claim(s)?

"Inadequate medical care" The Sexual Assault
Violation of Eighth Amendment under
Cruel and unusual punishment by failing to treat
Prisoner's serious medical condition
② Violation of 1st Amendment, Harassment & Retaliation
After filing Administrative Remedies on prison -
- official's -

D. Did you file a grievance in the jail, prison, or other correctional facility where your claim(s) arose concerning the facts relating to this complaint?

☒ Yes

☐ No

If no, did you file a grievance about the events described in this complaint at any other jail, prison, or other correctional facility?

☒ Yes

☐ No

E. If you did file a grievance:

1. Where did you file the grievance? At USFMC-Springfield "exhaustion"
At USFMC-Proctor "exhaustion"

also Here at USFMC-Ft. Devens. Please Note that my Correctional Counselors Mr Tidwell And T. O'Connor has refused to return all of my Institutional level remedy's

2. What did you claim in your grievance? That medical providers has refused to treat my continued medical issues which has caused me to get worse

② My Provider's refuses to follow Consultative Specialist Order's-GI Specialist At Nashoba Hospital & Colorectal Specialist Ms Dawids At the University of Massachusetts

3. What was the result, if any?

No respond to the Administrative-Remedy's, Some was not pick up by Counselors Tidwell & O'Connor being retaliated Against, legal mail being tamper wit Placed In segregation With No Running Water. No Mandatory Recreation And Personal Property Destroyed

4. What steps, if any, did you take to appeal that decision? Is the grievance process completed? If not, explain why not. (Describe all efforts to appeal to the highest level of the grievance process.)

The Steps Are Remedy 9 "Institution #10 regional office #11 Central Office However If the #9 credit returned to you, you can't proceed to A #10, or 11, I've written the North east regional office letter's explaining to them that my UDC team are refusing to return my Administrative remedy's And have Done the Same to the Central office In Washington D.C And No one has responded Back As of Today 6/11/18. This violation And refusal of Administrative Remedy's has only happened here At Federal Medical Center, Ft Devens

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F. If you did not file a grievance:

1. If there are any reasons why you did not file a grievance, state them here:

I have always filed, if I had A Attorney
He or she would be able to Discover that I've
been failing Since ~~the~~ August of 2016

2. If you did not file a grievance but you did inform officials of your claim, state who you informed, when and how, and their response, if any:

Facilities Warden's
Medical Director's
mother, father, Grandmother
Aunt's & Uncle's
Senator's Al Franklin, Elizabeth Warren and Missus. Soner
MS Castro

G. Please set forth any additional information that is relevant to the exhaustion of your administrative remedies. I believe the reason why I'm being Denied Administrative remedies because I have told the Medical Administration that I will file A Civil Complaint

(Note: You may attach as exhibits to this complaint any documents related to the exhaustion of your administrative remedies.)

VIII. Previous Lawsuits

The "three strikes rule" bars a prisoner from bringing a civil action or an appeal in federal court without paying the filing fee if that prisoner has "on three or more prior occasions, while incarcerated or detained in any facility, brought an action or appeal in a court of the United States that was dismissed on the grounds that it is frivolous, malicious, or fails to state a claim upon which relief may be granted, unless the prisoner is under imminent danger of serious physical injury." 28 U.S.C. § 1915(g).

To the best of your knowledge, have you had a case dismissed based on this "three strikes rule"?

☐ Yes

☒ No

If yes, state which court dismissed your case, when this occurred, and attach a copy of the order if possible.

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- A. Have you filed other lawsuits in state or federal court dealing with the same facts involved in this action?

☒ Yes

☐ No

- B. If your answer to A is yes, describe each lawsuit by answering questions 1 through 7 below. (If there is more than one lawsuit, describe the additional lawsuits on another page, using the same format.)

1. Parties to the previous lawsuit

Plaintiff(s)

Richard McFee

Defendant(s)

Wade Jordan ex Al

2. Court (if federal court, name the district; if state court, name the county and State)

For the District of Missouri

3. Docket or index number

6:17-cv-03140 - MDH

4. Name of Judge assigned to your case

M. Douglas Harpool

5. Approximate date of filing lawsuit

5/22/17

6. Is the case still pending?

☐ Yes

☒ No

If no, give the approximate date of disposition.

7. What was the result of the case? (For example: Was the case dismissed? Was judgment entered in your favor? Was the case appealed?)

The Case was dismissed with out prejudice I did not know how to respond to the Defendant's motion For Summary Judgment, I didn't know I had to Ask For Production of Document's From the Defendant's Admissions, I don't know how to respond to the proceeding that's why I'm Asking for Appointment of Counsel

- C. Have you filed other lawsuits in state or federal court otherwise relating to the conditions of your imprisonment? yes

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☒ Yes

☐ No

D. If your answer to C is yes, describe each lawsuit by answering questions 1 through 7 below. (If there is more than one lawsuit, describe the additional lawsuits on another page, using the same format.)

1. Parties to the previous lawsuit

Plaintiff(s) Richard McFee

Defendant(s) Ramsey County Workhouse

2. Court (if federal court, name the district; if state court, name the county and State)

Ramsey County St. Paul Minnesota

3. Docket or index number

Don't remember

4. Name of Judge assigned to your case

Don't remember

5. Approximate date of filing lawsuit

Don't remember

6. Is the case still pending?

☐ Yes

☒ No

If no, give the approximate date of disposition _____

7. What was the result of the case? (For example: Was the case dismissed? Was judgment entered in your favor? Was the case appealed?)

I fail to state who I was suing, however the Court Judge stated I had made a violent claim, I didn't put the names of the medical officials which he dismissed it without prejudice to give me a chance to come back I got release soon after then just forgot about it since I was doing better medically

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☒ Yes

☐ No

D. If your answer to C is yes, describe each lawsuit by answering questions 1 through 7 below. (If there is more than one lawsuit, describe the additional lawsuits on another page, using the same format.)

1. Parties to the previous lawsuit

Plaintiff(s)

Richard McFee

Defendant(s)

Ramsey County Workhouse

2. Court (if federal court, name the district; if state court, name the county and State)

Ramsey County St Paul Minnesota

3. Docket or index number

Don't remember

4. Name of Judge assigned to your case

Don't remember

5. Approximate date of filing lawsuit

Don't remember

6. Is the case still pending?

☐ Yes

☒ No

If no, give the approximate date of disposition

7. What was the result of the case? (For example: Was the case dismissed? Was judgment entered in your favor? Was the case appealed?) I fail to state who I was suing. However the Court Judge stated I had read a ~~violate~~ claim, I didn't put the names of the medical officials which he dismissed it without prejudice to give me a chance to come back I got release soon after then just forgot about it since I was doing better medically

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IX. Certification and Closing

Under Federal Rule of Civil Procedure 11, by signing below, I certify to the best of my knowledge, information, and belief that this complaint: (1) is not being presented for an improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; (2) is supported by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Rule 11.

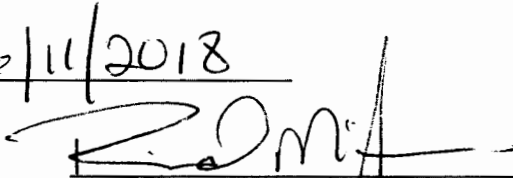
A. For Parties Without an Attorney

I agree to provide the Clerk's Office with any changes to my address where case-related papers may be served. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

Date of signing:

6/11/2018

Signature of Plaintiff



Printed Name of Plaintiff

Richard McFee

Prison Identification #

18623-041

Prison Address

FMC-Ft. Davis, FMB 879

Ayer
City

Ma
State

01432
Zip Code

B. For Attorneys

Date of signing:

Signature of Attorney

Printed Name of Attorney

Bar Number

Name of Law Firm

Address

City

State

Zip Code

Telephone Number

E-mail Address

Clinical Director "YEH" refused to follow Emergency Room Doctor at Nashawba Hospital on 4/6/2018 which this Emergency Room Doctor ~~then~~ told Defendant YEH to discontinue plaintiff McFee Pill Form Magnesium and start medications And Start liquid magnesium because plaintiff McFee was not observing the pill form magnesium pills do to plaintiff McFee's High output from His Ostomy Bag.

and) Defendant "F" F, Fendreyer Refused To examine Plaintiff McFee Back Side After McFee Signed up for medical Sick call on 5/1/2018 Complaining of Chest pains Vomiting up Blood, Stool And Scar Tissue, Defendant Fendreyer came to my Room In "unit" Special Housing unit #102 And left me on the floor after I Complaint to the Defendant that I was Having Chest Pains And Vomiting up Blood & Stool

Defendant F, Fendreyer has Continuously Refused to come examine my Backside Rectum after Special Housing Nurse Ms Galant Informed this Defendant that She witness A Great Amount of Blood In plaintiff McFee rectum and under shorts

Friday on 6/8/2018, Defendant Fendreyer was Informed by the Laboratory Department Here At USMCFP-Ft Devens that Plaintiff McFee Magnesium levels was At A life threatening low At 1.1, on Monday 6/11/18, I plaintiff McFee Sign up for Sick call because I was having Dizziness spells And A lot of Chest Pain Defendant F, Fendreyer Informed me then that my Magnesium levels was At A life threatening low on Friday And she is Sure that it has probably Dropped lower, I request to this Defendant to Allow A I.V Infusion to bring Plaintiff McFee Magnesium up before further harm happen, Defendant Fendreyer told Plaintiff that she's not worried about it because over the pass few months she been my Provider - her magnesium has been lower then that, I said to this Defendant what if I have A Heart Attack this Defendant responded

I Ask Defendant Funderyer what if I have A Heart Attack
Defendant Funderyer Stated to plaintiff McFee that ("you should
stay out of Jail")

Defendant L. Lund medical Doctor

While Housed In the special Housing unit "Segregation"
Doctor L. Lund has over seed my case As-my Doctor.

Since Arriving to the special Housing unit on 4/27/2018
I have Ask Defendant Lund to exzamine my Back-side rectum
Because plaintiff McFee Continue to Bleed bright red Blood
From His rectum area from the Sexual Assault which took
place At USMCFR Rochester Mn. Defendant Lund has also
been order by the medical warden to come exzamine
plaintiff mcfee backside and this Defendant has refused to
follow Any Administrative's orders. Defendant "L. Lund" has
also refused to treat plaintiff mcfee life Threatening Blood
magnesium levels Since plaintiff has been Added to this
Defendant Case load, after Discovering that plaintiff McFee
Weight has Dropped 22lbs In A matter of 30 days and that
plaintiff mcfee fistula Cronh's Disease Condition has gotten
worse Defendant Lund has Fusely Documented In plaintiff
medical records that plaintiff Are doing better. After the
medical warden Ask Defendant L. Lund Have He did Any recent
EKG. Defendant Lund was Dishonest with the warden by stating
He have Done 2 EKG's In the Pass 30 days which After
reviewing plaintiff McFee medical records It was last Document
ed that plaintiff last EKG was Done on 4/6/2018 30 days
before Defendant Lund became plaintiff McFee Doctor. also
while Defendant Lund And F. Funderyer has been Defendant providers
Both Defendants fail to treat plaintiff McFee Critical life -
Threatening magnesium problems by Not ordering the plaintiff
Any magnesium medication from 5/11/18 Through 6/11/18 which
Is why Plaintiff magnesium levels are At A life Threatening low.

~~Defendant~~

Defendant "Tidwell" Correctional Counselor over the medical Building Plays A Role In this 1331 Civil Action because In Early Jan 2018, I Plaintiff McFee went to this Defendant "Tidwell" To Ask For Administrative Remedys so I could file on medical Officials for refusing to supply me osomy Bags for 23 days after Arriving From FMC Rochester, Defendant "Tidwell" refused me Administrative Remedys, A few days later I got some Remedys for another inmate on medical ward P-3 which I filed on Medical for not providing plaintiff with osomy supplies and I also filed on Defendant "Tidwell" for violating my Due process Rights to file Administrative Remedys about A week later Defendant Tidwell Retaliated Against Plaintiff by kicking plaintiff out of the Hospital while Plaintiff was suffering with open wounds and place me McFee In A General population unit where there wasn't any medical staff to treat plaintiff medical condition. A week later, nursing Director ms Shilling had plaintiff transfereed back to the Medical Hospital because His providers Did not Sign off for Plaintiff to be Discharge From the Hospital ward, 5 days later when Defendant Tidwell learned that plaintiff was Back on Medical ward P-2, Defendant Tidwell removed Plaintiff Again back to General population with out Doctor's orders which was out of Retaliation because plaintiff had file Administrative Remedys Against Defendant Tidwell